

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1604 be amended to read as follows:

- 1 Page 37, between lines 28 and 29, begin a new paragraph and insert:  
2 "SECTION 48. IC 36-10-9-8 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The board shall  
4 prepare a budget for each calendar year covering the projected  
5 operating expenses, and estimated income to pay the operating  
6 expenses, including amounts, if any, to be received from excise taxes  
7 and ad valorem property taxes. It shall submit the budget for review,  
8 approval, or rejection to the city-county legislative body. The board  
9 may make expenditures only as provided in the budget as approved,  
10 unless additional expenditures are approved by the legislative body.  
11 However, payments to users of any capital improvement that constitute  
12 a contractual share of box office receipts are neither an operating  
13 expense nor an expenditure within the meaning of this section.  
14 (b) If the board desires to finance a capital improvement in whole  
15 or in part by the issuance of bonds under section 12 or 15 of this  
16 chapter, the board shall submit the following information to the  
17 city-county legislative body at least ~~fifteen (15)~~ **thirty (30)** days before  
18 the adoption of a resolution authorizing the issuance of the bonds:  
19 (1) A description of the project to be financed through the  
20 issuance of bonds.  
21 (2) The total amount of the project anticipated to be funded  
22 through the issuance of bonds.  
23 (3) The total amount of other anticipated revenue sources for the  
24 project.  
25 (4) Any other terms upon which the bonds will be issued.  
26 (c) The city-county legislative body must discuss the information  
27 provided in subsection (b) in a public hearing **held before the**  
28 **resolution may be adopted by the board.**  
29 SECTION 49. IC 36-10-9-9 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The treasurer of  
31 the board is the official custodian of all funds and assets of the board  
32 and is responsible for their safeguarding and accounting. He shall give

1 bond for the faithful performance and discharge of all duties required  
2 of him by law in the amount and with surety and other conditions that  
3 may be prescribed and approved by the board. All funds and assets in  
4 the capital improvement fund and the capital improvement bond fund  
5 created by this chapter and all other funds, assets, and tax revenues  
6 held, collected, or received by the treasurer of the county for the use of  
7 the board shall be promptly remitted and paid over by him to the  
8 treasurer of the board, who shall issue receipts for them.

9 (b) The treasurer of the board shall deposit all funds coming into  
10 his hands as required by this chapter and by IC 6-7-1-30.1, and in  
11 accordance with IC 5-13. Money so deposited may be invested and  
12 reinvested by the treasurer in accordance with general statutes relating  
13 to the investment of public funds and in securities that the board  
14 specifically directs. All interest and other income earned on  
15 investments becomes a part of the particular fund from which the  
16 money was invested, except as provided in a resolution, ordinance, or  
17 trust agreement providing for the issuance of bonds or notes. All funds  
18 invested in deposit accounts as provided in IC 5-13-9 must be insured  
19 under IC 5-13-12.

20 (c) The board shall appoint a controller to act as the auditor and  
21 assistant treasurer of the board. He shall serve as the official custodian  
22 of all books of account and other financial records of the board and has  
23 the same powers and duties as the treasurer of the board or the lesser  
24 powers and duties that the board prescribes. The controller, and any  
25 other employee or member of the board authorized to receive, collect,  
26 or expend money, shall give bond for the faithful performance and  
27 discharge of all duties required of him in the amount and with surety  
28 and other conditions that may be prescribed and approved by the board.  
29 He shall keep an accurate account of all money due the board and of all  
30 money received, invested, and disbursed in accordance with generally  
31 recognized governmental accounting principles and procedure. All  
32 accounting forms and records shall be prescribed or approved by the  
33 state board of accounts.

34 (d) The controller shall issue all warrants for the payment of  
35 money from the funds of the board in accordance with procedures  
36 prescribed by the board, but a warrant may not be issued for the  
37 payment of a claim until an itemized and verified statement of the  
38 claim has been filed with the controller, who may require evidence that  
39 all amounts claimed are justly due. All warrants shall be countersigned  
40 by the treasurer of the board or by the executive manager. Warrants  
41 may be executed with facsimile signatures.

42 (e) If there are bonds or notes outstanding issued under this  
43 chapter, the controller shall deposit with the paying agent or other  
44 paying officer within a reasonable period before the date that any  
45 principal or interest becomes due sufficient money for the payment of  
46 the principal and interest on the due dates. The controller shall make  
47 the deposit with money from the sources provided in this chapter, and  
48 he shall make the deposit in an amount that, together with other money  
49 available for the payment of the principal and interest, is sufficient to  
50 make the payment. In addition, the controller shall make other deposits  
51 for the bonds and notes as is required by this chapter or by the

1 resolutions, ordinances, or trust agreements under which the bonds or  
2 notes are issued.

3 (f) The controller shall submit to the board at least annually a  
4 report of his accounts exhibiting the revenues, receipts, and  
5 disbursements and the sources from which the revenues and receipts  
6 were derived and the purpose and manner in which they were  
7 disbursed. The board may require that the report be prepared by an  
8 independent certified public accountant designated by the board. **The**  
9 **state board of accounts shall audit annually the accounts, books,**  
10 **and records of the board and prepare a financial and a compliance**  
11 **audit report. The board shall submit the state board of account's**  
12 **financial and compliance reports to the city-county legislative**  
13 **body. The board shall post the state board of account reports on**  
14 **the board's Internet web site. The board shall also post their**  
15 **annual approved budget on the board's Internet web site. The**  
16 **city-county legislative body shall discuss the state board of**  
17 **account's financial and compliance reports in a public hearing.** The  
18 handling and expenditure of funds is subject to ~~audit and~~ supervision  
19 by the state board of accounts.

20 SECTION 50. IC 36-10-9-12 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A capital  
22 improvement may be financed in whole or in part by the issuance of  
23 bonds payable, to the extent stated in the resolution or trust agreement  
24 providing for the issuance of the bonds, solely from one (1) or more of  
25 the following sources:

26 (1) Net income received from the operation of the capital  
27 improvement and not required to be deposited in the capital  
28 improvement bond fund under section 11 of this chapter.

29 (2) Net income received from the operation of any other capital  
30 improvement or improvements and not required to be deposited  
31 in the capital improvement bond fund under section 11 of this  
32 chapter.

33 (3) Money in the capital improvement bond fund available for  
34 that purpose.

35 (4) Money in the capital improvement fund available for that  
36 purpose.

37 (5) Any other funds made available for that purpose.

38 The resolution or trust agreement may pledge all or part of those  
39 amounts to the repayment of the bonds and may secure the bonds by a  
40 lien on the amounts pledged.

41 (b) If the board desires to finance a capital improvement in whole  
42 or in part as provided in this section, it shall adopt a resolution  
43 authorizing the issuance of revenue bonds. The resolution must state  
44 the date or dates on which the principal of the bonds will mature (not  
45 exceeding forty (40) years from the date of issuance), the maximum  
46 interest rate to be paid, and the other terms upon which the bonds will  
47 be issued.

48 (c) **If the city-county legislative body approves issuance of**  
49 **bonds under IC 36-3-6-9,** the board shall submit the resolution to the  
50 executive of the consolidated city, who shall review it. If the executive

1 approves the resolution, the board shall take all actions necessary to  
 2 issue bonds in accordance with the resolution. The board may, under  
 3 section 13 of this chapter, enter into a trust agreement with a trust  
 4 company as trustee for the bondholders. An action to contest the  
 5 validity of bonds to be issued under this section may not be brought  
 6 after the fifteenth day following:

7 (1) the receipt of bids for the bonds, if the bonds are sold at  
 8 public sale; or

9 (2) the publication one (1) time in a newspaper of general  
 10 circulation published in the county of notice of the execution and  
 11 delivery of the contract of sale for the bonds;

12 whichever occurs first.

13 (d) Bonds issued under this section may be sold at public or  
 14 private sale for the price or prices that are provided in the resolution  
 15 authorizing the issuance of bonds. All bonds and interest are exempt  
 16 from taxation in Indiana as provided in IC 6-8-5.

17 (e) When issuing revenue bonds, the board may covenant with the  
 18 purchasers of the bonds that any funds in the capital improvement fund  
 19 may be used to pay the principal on, or interest of, the bonds that  
 20 cannot be paid from any other funds.

21 (f) The revenue bonds may be made redeemable before maturity  
 22 at the price or prices and under the terms that are determined by the  
 23 board in the authorizing resolution. The board shall determine the form  
 24 of bonds, including any interest coupons to be attached, and shall fix  
 25 the denomination or denominations of the bonds and the place or  
 26 places of payment of the principal and interest, which may be at any  
 27 bank or trust company within or outside Indiana. All bonds must have  
 28 all the qualities and incidents of negotiable instruments under statute.  
 29 Provision may be made for the registration of any of the bonds as to  
 30 principal alone or to both principal and interest.

31 (g) The revenue bonds shall be issued in the name of the county  
 32 and must recite on the face that the principal of and interest on the  
 33 bonds is payable solely from the amounts pledged to their payment.  
 34 The bonds shall be executed by the manual or facsimile signature of the  
 35 president of the board, and the seal of the county shall be affixed or  
 36 imprinted on the bonds. The seal shall be attested by the manual or  
 37 facsimile signature of the auditor of the county. However, one (1) of the  
 38 signatures must be manual, unless the bonds are authenticated by the  
 39 manual signature of an authorized officer or a trustee for the  
 40 bondholders. Any coupons attached must bear the facsimile signature  
 41 of the president of the board.

42 (h) This chapter constitutes full and complete authority for the  
 43 issuance of revenue bonds. No law, procedure, proceedings,  
 44 publications, notices, consents, approvals, orders, acts, or things by the  
 45 board or any other officer, department, agency, or instrumentality of the  
 46 state or any political subdivision is required to issue any revenue bonds  
 47 except as prescribed in this chapter.

48 (i) Revenue bonds issued under this section are legal investments  
 49 for private trust funds and the funds of banks, trust companies,  
 50 insurance companies, building and loan associations, credit unions,

banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

SECTION 51. IC 36-10-9-15, AS AMENDED BY P.L.146-2008, SECTION 797, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the ~~board of commissioners of the county~~, **city-county legislative body for approval under IC 36-3-6-9**, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) ~~Upon receipt of the resolution and certificate, the board of commissioners of the county may adopt them and~~ **If the city-county legislative body approves the issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review it. If the executive approves the resolution, the board shall** take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed

- 1 appropriation;
- 2 (6) the approval of the appropriation by the department of local
- 3 government finance; and
- 4 (7) the sale of bonds at public sale for not less than par value;
- 5 are applicable to the issuance of bonds under this section.".
- 6 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1604 as printed April 7, 2009.)

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Senator MILLER